

I pointed out how Part D has already given seniors, on the 25 drugs most used by seniors, 35-percent lower prices than we anticipated when we wrote the bill. While it is great to be doing things for seniors, there is no free lunch. Everybody, regardless of age, will pay more for prescription drugs. Do you want that to happen? Do you want those unintended consequences to happen?

Then we had another witness at the hearing held by Senator BAUCUS before the Senate Finance Committee last week. It was a representative of the Government Accountability Office who talked about its Year 2000 report on this very issue, and echoed Professor Scott Morton's view. Remember, in 2000 the General Accounting Office concluded:

Mandating that federal prices for outpatient prescription drugs be extended to a large group of purchasers such as Medicare beneficiaries could lower the prices they pay, but raise prices for others.

That is from a nonpartisan Government agency working for the Congress of the United States called the Government Accountability Office.

One thing we keep hearing is that Medicare should not pay more than the Veterans' Administration pays. We had another witness, Professor Richard Frank of Harvard University, who said that if Medicare got the same prices the Veterans' Administration gets for drug prices—if that happened—it would likely raise Veterans' Administration prices for our veterans for all drugs. Do you want to hurt veterans with these unintended consequences of some of these ideas that are floating around this new Congress?

Then we had other panelists. As they listened to Dr. Frank's response, other panelists nodded in agreement. Talk about unintended consequences, do you know who else agrees with these professors who have been testifying before our committee? I point to the Military Order of the Purple Heart. In a letter to Members of Congress, the Military Order of the Purple Heart expressed its concern about the impact that extending Veterans' Administration prices to Medicare could have on veterans. In fact, they stated that several veterans organizations passed formal resolutions opposing legislation to extend the Veterans' Administration prices to Medicare because it would threaten Veterans' Administration's current discounts.

What is the end result? Higher drug prices for those who get their drugs from the Veterans' Administration.

Another key point made at last week's hearing before the Senate Finance Committee was that it is not simply about the number of people for whom you are buying drugs. In response to a question I asked Professor Scott Morton, the professor said it doesn't matter whether you negotiate on behalf of 1 million people or 43 million people—which is the number of senior citizens in this country. What

matters is what leverage you have and how you use that leverage. And if you don't have a fundamental tool, and that would be the formulary, you have no leverage over drugmakers. A formulary is a list of drugs that a plan will cover.

Here is what Professor Scott Morton said would happen if someone negotiating drug prices couldn't have a formulary:

Each manufacturer would know that, fundamentally, Medicare must purchase all products. The Medicare "negotiator" would have no bargaining leverage, and therefore, simply allowing bargaining on its own would not lead to substantially lower prices.

That is the end of the quote from Professor Scott Morton.

Then we had a Mr. Edmund Haislmaier, a fellow at the Heritage Foundation, talk about the limits of bulk purchasing power alone. In his written testimony he said:

... volume purchasing encourages manufacturer discounting, it is not, in and of itself, sufficient to extract large discounts. Manufacturers will only offer substantial discounts if the buyer combines the "carrot" of volume with the "stick" of being able to substitute one supplier's goods with those of another.

In drug negotiation, that stick he is talking about—Mr. Haislmaier is talking about—is the formulary.

Here is what is wrong with the House bill that just passed. It prohibits the Secretary of Health and Human Services from using a formulary. Thus the stick that is necessary, that the Veterans' Administration uses to drive down the price of drugs, is not even in the bill that passed the House that is supposed to guarantee senior citizens lower drug prices.

For all of their talk about getting savings from Government negotiations, the House Democrats took away a key tool to get lower prices. That was a key lesson we also learned from last week's Finance Committee hearing that Senator BAUCUS chaired.

Here is what the Congressional Budget Office said about H.R. 4. Here I have a chart. The bottom line of it is that it would have negligible effect on Federal spending. To emphasize that, I want to read it all. For the benefit of new Members, I point out we will soon find out that when you refer to the Congressional Budget Office, it is like God on Capitol Hill. When the Congressional Budget Office says something costs something—and you might have intellectually honest, good reasons for disagreeing with it—the Congressional Budget Office is always right. If there is a point of order against it, then you get 60 votes. The 60-vote requirement around here almost makes anything or anybody or any agency a god, because it is difficult to get 60 votes. So CBO generally stands. Sometimes they are overridden but not very often. So this god of CBO:

CBO estimates that H.R. 4—

I want to emphasize, that is the bill that just passed the House last week, a Democratic bill—

would have negligible effect on Federal spending because we anticipate that the Secretary—

meaning the Secretary of HHS—

would be unable to negotiate prices across a broad range of covered Part D drugs that are more effective than those obtained by PDPs under current law.

You heard it during the campaign. You heard it a long time before the campaign. If we do away with this non-interference clause, we are going to get drugs cheaper for the citizens. This is supposedly on top of the 35 percent of the average reduction in the price of the 25 drugs most often used by senior citizens, and the god of Capitol Hill says there is not going to be the savings. That is not only for the people who pay out of their pockets some portion for drugs, but also saving the taxpayers money.

I am going to quote another thing from the Congressional Budget Office that gets back to this carrot and stick, the stick being the formulary that is used by the Veterans' Administration to get the low prices they get—the same pattern that proponents of doing away with the noninterference clause want to follow, to get lower prices for senior citizens, and that is the formulary. The Veterans' Administration has a formulary, but the House bill passed last week does not have a national formulary, so you do not have a stick to accomplish the goals.

Without the authority to establish a formulary, we believe the Secretary would not be able to encourage the use of particular drugs by Part D beneficiaries, and as a result would lack the leverage to obtain significant discounts in his negotiations with drug manufacturers.

It is pretty clear that what we are being told you are going to get as a result of the House-passed bill is not happening. So I would quote another independent actuary—maybe not quite the god that CBO is, but the actuaries at the Center for Medicare Services, the agency that oversees the Medicare drug benefit. They said about the same thing about H.R. 4 not having a formulary.

Although the bill would require the Secretary to negotiate with drug manufacturers regarding drug prices, the inability to drive market share via the establishment of a formulary or development of a preferred tier significantly undermines the effectiveness of negotiations.

Whether you are CBO, responsible to the Congress of the United States, working for the Congress of the United States, or whether you are the actuaries downtown at the Center for Medicare Services working for the President of the United States—and maybe actuaries are fairly independent—but the point being they came to the same conclusion, that the tool that is necessary to accomplish what Democrats say they want to accomplish by doing away with the noninterference clause to negotiate prices with drug companies isn't going to be effective because the tool to be effective is not in their legislation.